United Nations E/2002/SR.39

Economic and Social Council

Provisional
22 November 2002

Original: English

Substantive session of 2002
General segment

Provisional summary record of the 39th meeting
Held at Headquarters, New York, on Thursday, 25 July 2002, at 10 a.m.

President: Mr. Rosenthal (Vice-President) ..... (Guatemala)

Contents

Social and human rights questions (*continued*)

(g) Human rights (*continued*)

Corrections to this record should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Chief, Official Records Editing Section, room DC2-750, 2 United Nations Plaza.

02-49733 (E)

In the absence of Mr. Šimonović (Croatia), Mr. Rosenthal (Guatemala), Vice-President, took the Chair.

The meeting was called to order at 10.20 a.m.

Social and human rights questions (*continued*)

(g) Human rights (*continued*) (E/2002/23, Parts I and II; E/2002/L.24)

1. **The President** drew attention to the draft decisions contained in chapter I, section B, of the report of the Commission on Human Rights on its fifty-eighth session (E/2002/23, Part I) and explained that Part II of the report contained an account of the action that had been taken on all draft proposals before the Commission. He also drew attention to the note by the Secretariat (E/2002/L.24) setting forth the programme budget implications of the proposals before the Council.

Draft decision 1

2. **The President** invited the Council to take action on draft decision 1, entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

3. **Ms. Serwer** (United States of America), speaking in explanation of vote before the voting, said that her delegation considered the resolution on which the draft decision was based (Commission resolution 2002/8) one-sided, unfair and unwise. It expressed unqualified support for a Palestinian right of resistance, implicitly endorsing the use of violence against civilians. It criticized Israel at length for alleged violations but ignored ongoing Palestinian terrorist attacks and the Palestinian Authority's responsibility to stop violence and incitement. Many human rights abuses were rooted in the ongoing Israeli-Palestinian conflict. The United States was actively working with the region's leaders and others in the international community to realize the vision of two States, Israel and Palestine, living side by side in peace and security. Adoption of the draft decision would do nothing to improve the human rights situation in the region, but would make it harder to restore trust and confidence in the region and bring the parties together. Her delegation urged the members of the Council instead to support constructive diplomatic efforts.

4. *At the request of the representative of the United States of America, a recorded vote was taken.*

In favour:

Angola, Argentina, Bahrain, Benin, Brazil, Burkina Faso, Burundi, Chile, China, Costa Rica, Cuba, Egypt, Ghana, India, Iran (Islamic Republic of), Libyan Arab Jamahiriya, Mexico, Pakistan, Qatar, Republic of Korea, Russian Federation, South Africa, Sudan, Suriname, Uganda, Ukraine, Zimbabwe.

Against:

Australia, United States of America.

Abstaining:

Andorra, Austria, Croatia, Finland, France, Georgia, Germany, Hungary, Italy, Japan, Malta, Netherlands, Peru, Romania, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland.

5. *Draft decision 1 was adopted by 27 votes to 2, with 17 abstentions.*

6. **Mr. Chuquihuara** (Peru) said that his delegation had abstained from voting because the resolution on which the decision was based expressed political interpretations that went beyond human rights questions. Protection of human rights was an international obligation that should be fulfilled without selectivity. His delegation categorically condemned all human rights violations in the area, regardless of the nationality or origin of the victims, and all violations of international humanitarian law, regardless of the force that committed them. It was deeply concerned about recent events, but nonetheless believed that acts of terrorism against civilians could not be justified on any grounds and were incompatible with the search for a fair negotiated settlement in conformity with Security Council resolutions 242 (1967) and 338 (1973).

Draft decision 2

7. **The President** invited the Council to take action on draft decision 2, entitled "Human rights situation of Lebanese detainees in Israel".

8. **Ms. Serwer** (United States of America), speaking in explanation of vote before the voting, said that her delegation strongly opposed the draft decision because the resolution on which it was based (Commission resolution 2002/10) was unbalanced and would not advance the cause of peace or help to reduce tension in the region. It condemned Israeli breaches of Lebanese territory while ignoring breaches of the withdrawal line

committed by Hezbollah. Nor did it mention that Lebanon, although it had increased the strength of its security forces in southern Lebanon, had so far failed to restore its effective authority there. The resolution also neglected to mention the positive steps the Government of Israel had already taken, such as allowing the International Committee of the Red Cross access to Lebanese prisoners. Moreover, contrary to assertions in the resolution, Israel had in fact provided maps of landmine fields to the United Nations Interim Force in Lebanon, as the Secretary-General's reports indicated.

9. *At the request of the representative of the United States of America, a recorded vote was taken.*

In favour:

Argentina, Bahrain, Benin, Bhutan, Burkina Faso, Burundi, Chile, China, Costa Rica, Cuba, Egypt, India, Iran (Islamic Republic of), Libyan Arab Jamahiriya, Mexico, Pakistan, Qatar, Russian Federation, South Africa, Sudan, Suriname, Uganda, Ukraine, Zimbabwe.

Against:

United States of America.

Abstaining:

Andorra, Angola, Australia, Austria, Croatia, Ethiopia, Finland, France, Georgia, Germany, Ghana, Hungary, Italy, Japan, Malta, Netherlands, Peru, Republic of Korea, Romania, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland.

10. *Draft decision 2 was adopted by 25 votes to 1, with 22 abstentions.*

11. **Mr. Blazey** (Australia) said that his delegation had abstained from voting because it felt that the resolution on which the decision was based was unbalanced and extreme, especially in the third, fifth and eighth preambular paragraphs, and did not contribute to the cause of peace. Australia called upon the parties to negotiate and to allow access to detainees by relevant international authorities.

Draft decisions 3, 4, 5 and 6

12. **The President** invited the Council to take action on: draft decision 3, entitled "Assistance to Equatorial Guinea in the field of human rights"; draft decision 4, entitled "Situation of human rights in Burundi"; draft decision 5, entitled "Situation of human rights in parts of south-eastern Europe"; and draft decision 6, entitled "Situation of human rights in the Democratic Republic of the Congo".

13. *Draft decisions 3, 4, 5 and 6 were adopted.*

Draft decision 7

14. **The President** invited the Council to take action on draft decision 7, entitled "Situation of human rights in Iraq".

15. **Mr. Ahmed** (Observer for Iraq), speaking in explanation of position, said that Commission on Human Rights resolution 2002/15, on which draft decision 7 was based, had been submitted by countries of the European Union and was similar to previous such resolutions in that it was selective and politically motivated, lacked objectivity and contained language of confrontation rather than dialogue. The sponsors of the resolution had dealt solely with the human rights situation, ignoring the economic blockade and the attacks which Iraq had endured for more than 11 years. If the sponsors had really been committed to human rights in Iraq, they would have approached the matter objectively and from a humanitarian point of view, referring candidly to the atrocities being committed against his country, and would have demanded an end to the blockade.

16. The only difference between the resolution under consideration and those of earlier years was the reference to the visit by the Special Rapporteur to Iraq the previous February. However, no account had been taken of the positive discussions that had taken place with the Special Rapporteur; instead, there was a repetition of the allegations made by those who were hostile to Iraq, supported by the United States and the United Kingdom. The Iraqi authorities remained convinced that the report of the Special Rapporteur did not adequately reflect the answers that had been given to his questions by Iraqi officials and felt it unfortunate that the resolution had ignored the objective discussions between Iraqi officials and the Special Rapporteur and Iraq's cooperation with him.

17. The resolution repeated the standard allegations concerning human rights but ignored what had been said by the Special Rapporteur in his report about the serious humanitarian situation in Iraq brought about by the economic blockade, which had caused the death of over 1.6 million Iraqi citizens, the majority of them

children and women. The reports of international organizations had described the situation as being a crime of mass extermination.

18. His delegation wished to draw attention, in particular, to the selective references in the resolution to the concluding observations of various treaty monitoring bodies on the basis of reports submitted to them by Iraq which drew attention to the supposed existence of a wide range of human rights problems in Iraq. He pointed out that the paragraph in question was inaccurate in that the treaty monitoring bodies had emphasized that the economic sanctions imposed on Iraq adversely affected its compliance with the relevant international treaties and had drawn attention to the increasing incidence of malnutrition and maternal and child mortality as a result of the shortage of medicines and foodstuffs.

19. It was regrettable that the same allegations were repeated year after year concerning the condition of minorities. The resolution called on the Government of Iraq to respect the rights of all ethnic and religious groups. His delegation pointed out in that connection that the Special Rapporteur had said that freedom of religion in Iraq was guaranteed to all. The Constitution and national legislation relating to the rights of the Kurds and other minorities guaranteed their enjoyment of all legal rights, and in fact they had established their own legislative, executive, economic and cultural institutions.

20. His delegation rejected the call in the resolution for the stationing of human rights monitors throughout Iraq, considering that that would be a political measure intended to impair the sovereignty of the State and interfere in its internal affairs under the pretext of protecting human rights. The promotion of human rights required the establishment of a climate of security, stability and peace and the exercise by the State of all its responsibilities, particularly its sovereignty over its natural resources, in order to ensure a normal life for its citizens. It was also necessary that there should be no interference in its internal affairs, or with its territorial integrity.

21. His delegation considered that dialogue and cooperation between members of the international community were the only proper way to ensure the promotion of human rights throughout the world. The submission of politically motivated and selective resolutions targeting certain States, including Iraq, was itself a flagrant violation of human rights. His delegation had hoped that the outcome of the first visit made by the Special Rapporteur to Iraq would have been reflected in the resolution, thereby encouraging further cooperation between the parties involved and being conducive to human rights. His delegation had also hoped for a resolution that was more objective and balanced in dealing with the human rights issue in Iraq and that took into account the impact of the blockade and the military aggression by the United States and the United Kingdom as well as the impact on health and the environment of the use of depleted uranium munitions. His delegation called on the States of the European Union to break their silence concerning the deterioration in the humanitarian situation in Iraq caused by the blockade and the attacks and to cease to address the question of human rights in Iraq in a biased, partial and politically tendentious manner.

22. **Mr. Gzilal** (Libyan Arab Jamahiriya) said that his delegation opposed the draft decision. The resolution on which the draft decision was based (Commission resolution 2002/15) aimed at marginalizing a country rich in natural and human resources. The resolution failed to mention that the decade-long embargo against Iraq had jeopardized the economic, cultural and political rights of the Iraqi people, chief among them the right to life, health and development. The text was unbalanced and failed to reflect the serious discussions which had taken place between the Government of Iraq and the Special Rapporteur. It undermined national sovereignty and constituted interference in the internal affairs of Iraq. His delegation called upon its brothers in Iraq and Kuwait to resolve their differences and put an end to the plight of the Kuwaiti prisoners, to remove any pretext for foreign interference.

23. **Mr. Rodríguez Parrilla** (Cuba) said that his delegation had abstained from voting on the underlying Commission resolution because it constituted a serious interference in Iraq's domestic affairs and failed to mention the effects of the prolonged sanctions on the human rights situation in Iraq. It therefore could not join in the consensus on the draft decision.

24. *Draft decision 7 was adopted.*

Draft decision 8

25. **Mr. Erwa** (Sudan), speaking in explanation of position, said that Commission on Human Rights resolution 2002/16, entitled "Situation of human rights

in the Sudan" and contained in document E/2002/23 (Part I), had been submitted by countries of the European Union and was prejudiced against his Government. It took the side of the rebel movement in the Sudan. Certain paragraphs of the resolution impaired the sovereignty of his country and its right to dispose freely of its natural resources. His delegation had no intention of refuting in detail the unfounded allegations contained in the resolution. Those allegations had been addressed at a meeting of the African Group in Geneva under the chairmanship of the delegation of Nigeria, which had spoken on behalf of the Sudan. He felt it was important, however, to inform the Council of the efforts made by the African Group to deal with the repetitive language of the draft resolution, which had remained unchanged in recent years in spite of the efforts of his Government to rebut the politically motivated allegations made against his country. The African Group in Geneva had submitted to the delegation representing the European Union a chairman's statement on the situation in the Sudan for consideration under item 19 concerning advisory services and technical cooperation in the field of human rights. The statement had been submitted to the delegation of the European Union on 6 March 2002 but, to the surprise of the African Group, the European Union had made no comment on it and six weeks later, without any consultation or contact with the African Group or with the delegation of the Sudan, had submitted the resolution that was currently before the Council. Accordingly, the African Group had taken the view that the resolution only expressed the point of view of the European Union countries and the other sponsors. Consequently, the African Group and the States members of the Organization of the Islamic Conference had requested an immediate vote on the draft resolution, as a result of which the resolution had been approved by a margin of only one vote.

26. His delegation's purpose in providing those details was to reaffirm that the best means of addressing the human rights situation in any country was through dialogue, cooperation and the provision of assistance rather than through confrontation and accusations. His delegation categorically rejected selectivity, double standards and politicization in dealing with human rights issues and was convinced that there was no State in the world in which human rights violations never occurred. The report of the Commission on Human Rights on its fifty-eighth session reflected the increasing tendency to reject confrontation with particular States by means of resolutions criticizing the situation of human rights in those States. The Commission had voted against a number of draft resolutions and his delegation was convinced that the tendency to reject selectivity and the politicization of human rights issues would become more widespread until such time as the countries sponsoring such resolutions adopted an approach based on objectivity, cooperation and dialogue.

27. The Sudan had made substantial progress in the political and economic fields and in human rights. It continued to strive to achieve more despite the numerous obstacles which it faced in common with other developing countries, particularly the least developed. His delegation wished to draw particular attention to the efforts made by his Government to bring about a lasting peace and put an end to the sufferings of its citizens as a result of the war in the south of the country. He was pleased to announce that those efforts had been successful with the signing on 20 July 2002 of a peace agreement between the Government and the Sudan People's Liberation Movement which laid the basis for a comprehensive and just solution to the conflict between the two parties, an agreement which had been welcomed by the Secretary-General and by the international community as a courageous step towards the achievement of a lasting peace in the Sudan. The signing of the agreement would undoubtedly have a positive impact on the situation of human rights in the Sudan, and it was to be hoped that the negotiations that were scheduled to take place in August 2002 would bring peace to that country with the support of the international community.

28. Accordingly, his delegation dissociated itself from the consensus concerning the resolution and invited other delegations to do likewise.

29. **Ms. Khalil** (Egypt), said that the draft decision on the situation of human rights in the Sudan before the Council had failed to reflect the country's reform initiatives in the field of human rights, and its commitment to cooperating with the international community. Her delegation took the firm view that human rights were better promoted through cooperation rather than through accusation or the advancement of a single point of view. In overlooking the initiative undertaken by Nigeria at the fifty-eighth session of the Commission on Human Rights, the European Union seemed to have indicated that it did

not want to consider other opinions. Her delegation wished to dissociate itself from the draft decision.

30. **Mr. Alaei** (Islamic Republic of Iran) said that, in keeping with the principled position it had often reiterated in connection with resolutions on country situations, his delegation was not in a position to support the draft decision on the situation of human rights in the Sudan. The mechanisms for monitoring human-rights situations in different parts of the world suffered from a major flaw in that they were susceptible to manipulation, with the result that human-rights values could be sacrificed to national interests. Resolution 2002/16 of the Commission on Human Rights concerning the Sudan had been no exception to that painful reality. Any international human-rights initiative should be underpinned by a spirit of cooperation and dialogue rather than by measures contrary to creativity and encouragement in that field.

31. There had been considerable developments in domestic governance in the Sudan, promoting long-term prosperity. Moreover, the Sudanese Government had recently finalized and signed an agreement with the rebel movement in the south of the country with a view to bringing about a just and lasting peace, for the sake of human progress and prosperity for all the population. The constructive steps taken to promote peace, development and human rights demonstrated the Government's political will and commitment to fulfilling its domestic obligations and international commitments. It was for that reason that the uniform position of the African Group at the Commission on Human Rights in Geneva had been to urge that the issue of human rights in the Sudan should be considered under item 19 of the Commission's agenda (Advisory services and technical cooperation in the field of human rights). Unfortunately, the African Group's approach had been rejected, and the resolution had been adopted by a margin of one vote, under item 9 of the Commission's agenda (Question of the violation of human rights and fundamental freedoms in any part of the world). The way in which the human-rights situation in the Sudan was being viewed was a clear example of the phenomenon he had already described: bias and the pursuit of political interests in the field of human rights. Accordingly, his delegation wished to dissociate itself from the consensus on the draft decision on the situation of human rights in the Sudan which was before the Council.

32. **Mr. Rodríguez Parrilla** (Cuba) said that his delegation did not wish to join the consensus on the draft decision, given that the moves against the Sudan in the field of human rights were a clear example of selective manipulation of the human-rights mechanisms of the United Nations for political ends and ran counter to protecting and promoting human rights throughout the world. That continuing punitive slant was an obstacle to international cooperation in human rights.

33. **Mr. Xie** Bohua (China) said that the Sudan was a least-developed country which, in order to protect and promote the human rights and fundamental freedoms of its people, had taken steps to develop its economy and safeguard its social stability. It had achieved positive results. The recent peace accord was also a welcome development. After years of chaos and war, the Sudan needed to begin rebuilding, and it faced many difficulties in human rights. The international community should show understanding of that situation and should provide assistance and constructive support rather than adopting resolutions which politicized the issue of human rights and ran counter to the spirit of international cooperation in that field. Such an approach did not help to resolve the issue. His delegation understood and supported the position of the delegation of the Sudan, and it did not wish to join the consensus on the draft decision.

34. **Mr. Gzilal** (Libyan Arab Jamahiriya) said that his delegation supported the positive approach to human rights set out in the statement of the delegation of the Sudan, an approach which had been endorsed by the African, Arab and Islamic countries at the fifty-eighth session of the Commission on Human Rights. The Sudan had made continuing efforts to guarantee respect for human rights and to cooperate with the Commission. Certain European Union countries had, however, preferred to condemn the Sudan when they would have been better advised to encourage it. The draft decision was proof of the selective approach adopted. His delegation urged those countries which had engaged in condemnation to try dialogue instead, which had been shown to be the best means of settling human-rights issues and promoting good relations among States. His delegation was unable to join the consensus on the draft decision.

35. **Mr. Alabi** (Nigeria) said that his delegation wished to associate itself with the statement of the representative of the Sudan. It had considerable respect

for the realization of human rights as the principal goal in human development and for meeting the challenges of globalization. That was an assertion guided not by sentiment, but by the fundamental principles and objectives of the Charter of the United Nations and the main human-rights instruments and conventions. The view which it had adopted in the Commission on Human Rights, and which it continued to hold, derived from the fact that although the Commission's resolution on the human rights situation in the Sudan (resolution 2002/16) had recognized the Sudanese Government's cooperation with the international community, it had ignored that Government's positive approach and commitment to restoring lasting peace in the country. For that reason, Nigeria felt it necessary to dissociate itself from the draft decision.

36. *Draft decision 8 was adopted.*

Draft decision 9

37. **The President** invited the Council to take action on draft decision 9, entitled "Situation of human rights in Cuba".

38. **Mr. Rodríguez Parrilla** (Cuba), speaking in explanation of position, said that the draft decision being imposed on the Council was not founded on the impartiality, objectivity and non-selectivity which should guide international cooperation on human rights. The real aim was to give the Government of the United States its latest excuse to maintain the blockade of Cuba, against the will of the United States people and in the face of international isolation. That blockade was an act of genocide under the Geneva Conventions and a blatant, significant and systematic violation of the human rights of Cubans. The resolution on which the decision was based (resolution 2002/18) had been approved in the Commission on Human Rights by a margin of only two votes, achieved by the super-Power's use of pressure, threats and extortion against subordinate Governments.

39. Many delegations had resisted that pressure and rejected the manipulation of the Commission on Human Rights for political ends, together with the spurious reasoning, hypocrisy and double standards imposed on it. They had understood that the continuing political slant intended to single Cuba out harmed the legitimate interest of the international community in promoting and protecting the human rights of all people in all countries. It sapped the credibility of the Commission and hindered the cooperation and dialogue which should underpin its work.

40. Cuba was proud of its human rights achievements. Its accusers could not make the same claim. The Cuban people had recently exercised their sovereign will and confirmed their massive support for the country's Constitution. Once again, Cuba's accusers could not make the same claim.

41. His delegation opposed the draft decision, seeing no legitimacy in the resolution on which it was based. It called on the secretariat of the Council to record formally a lack of consensus.

42. **Mr. Erwa** (Sudan) said that the Sudan had special respect for human rights, as reflected in the moral values of its people, its Constitution and its domestic legislation. For that reason, it refused to countenance selective exploitation of the issue or the use of double standards, politicization and confrontation in connection with it, instead of dialogue and cooperation. As a result, the Sudan supported the statement made by the representative of Cuba and did not wish to join the consensus on the draft decision.

43. **Mr. Muchetwa** (Zimbabwe) said that his delegation, with regret, would not be joining the consensus on the draft decision. It believed that it was politically motivated and did not derive from legitimate concerns over the situation of human rights in Cuba. It was clearly not based on the principles of impartiality, objectivity and non-selectivity which it had been agreed should guide international cooperation on human rights. While the Commission on Human Rights had focused on Cuba, which it acknowledged had made great strides in social rights, the same commitment to human rights and democracy was not present in the case of many other areas where men, women and children were killed and maimed daily and denied their legitimate right to self-determination.

44. **Mr. Andrabi** (Pakistan) said that Pakistan had always opposed the use of a selective and one-sided approach to human-rights issues in developing countries, as it was a practice that failed to advance the cause of human rights. Pakistan had voted against the resolution on which the decision before the Council was based (resolution 2002/18), and therefore wished to dissociate itself from that decision.

45. **Mr. Alabi** (Nigeria) said that Nigeria wished to dissociate itself from the consensus on the draft

decision in question, as it had earlier voted against the resolution on which it was based (resolution 2002/18).

46. **Mr. Montwedi** (South Africa) said that his Government's official position on the human-rights situation in Cuba had been to oppose consistently proposals like the draft decision before the Council, which, though they purported to seek improvement, were counterproductive. The real intention of the draft decision in question seemed to be to continue the politically motivated agenda of some States to achieve economic isolation of the Government and people of Cuba. His delegation regretted to inform the Council that it wished to dissociate itself from the draft decision, and that it would vote against it if a vote was held.

47. **Mr. Nteturuye** (Burundi) said that his delegation had dissociated itself from the consensus on the resolution on which the draft decision before the Council was based (resolution 2002/18) because it could not support the application of double standards or the regrettable practice of some States which used human rights as an excuse to attack the dignity of other countries, including weaker countries. It opposed the draft decision and would vote against it in support of Cuba.

48. **Mr. Lukiantsev** (Russian Federation) said that the Russian Federation consistently opposed any attempts to politicize the work of the Commission on Human Rights. Sponsoring a draft resolution on the situation of human rights in Cuba in the Commission year after year was anything but an expression of genuine concern over matters in that country. For that reason, the Russian Federation did not support the consensus on the draft decision. His delegation wished to confirm once again the position it had taken on thematic issues and country issues at the fifty-eighth session of the Commission on Human Rights. That position applied equally to the country situations under consideration at the current session of the Council.

49. **Mr. Gaspar Martins** (Angola) said that his delegation was following developments in Cuba closely and was aware that the adoption of a resolution on the human-rights situation there year after year for the past 10 years had not proved effective. In the light of that consideration, and given the positive steps that it had observed in Cuba, his delegation was not willing to associate itself with the consensus on the draft decision. It looked forward to more imaginative and positive ways of addressing the situation in Cuba.

50. **Mr. Gzllal** (Libyan Arab Jamahiriya) said that the Commission resolution on which the decision before the Council was based (resolution 2002/18) flew in the face of the Cuban people's right to choose their own economic and social system. It had been drafted selectively and lacked impartiality and objectivity. His delegation opposed the draft decision and called upon the sponsors of the resolution not to continue to promote division.

51. **Mr. Alaei** (Islamic Republic of Iran) said that the Islamic Republic of Iran, which was not currently a member of the Commission on Human Rights, maintained that the promotion and protection of human rights would only be achieved through dialogue and understanding, and that the use of confrontation in addressing human-rights issues led to stereotyping, misperception, double standards and bias. His delegation was unable to support the tone and substance of the country-situation monitoring reports currently under consideration. The continuing tendency to initiate and adopt Council resolutions which relegated human rights to a secondary position and instead promoted nationalistic political interests would do more harm than good to the cause of human rights and ran counter to the ideals of the Universal Declaration of Human Rights and the two International Covenants on Human Rights. In other words, it was prompted by a desire to maintain political superiority and not by any commitment to the human rights agenda of the United Nations. Far from being inspired by a spirit of impartiality, objectivity and non-selectivity, the resolution on Cuba adopted by the Commission on Human Rights (resolution 2002/18) was an effort to manipulate the mechanisms of the Commission on Human Rights so as to serve extraneous interests and force one particular political will on the international community.

52. For the reasons he had expressed, his delegation wished to dissociate itself from the consensus on the draft decision before the Council.

53. **Mr. Xie Bohua** (China) said that the resolution on which the draft decision was based was the product of political antagonism and a manifestation of unjust political relations. Cuba's struggle as a small country to resist political pressure and economic blockade by a super-Power for four decades and to realize for its

people the right to development in a hostile external environment constituted a contribution to the cause of human rights worldwide and should inspire respect. His delegation supported the principled position of Cuba and could not join the consensus on the draft decision.

54. **Ms. Loemban Tobing-Klein** (Suriname) said that her country, as the sole member of the Caribbean Community serving on the Council, could not join the consensus. If a vote was taken on the draft decision, her delegation would vote against it.

55. *Draft decision 9 was adopted.*

Draft decisions 10 and 11

56. **The President** invited the Council to take action on draft decision 10, entitled "Situation of human rights in Afghanistan", and draft decision 11, entitled "Situation of human rights in Sierra Leone".

57. *Draft decisions 10 and 11 were adopted.*

Draft decision 12

58. **The President** invited the Council to take action on draft decision 12, entitled "Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights".

59. **Mr. Dennis** (United States of America) said that his delegation opposed the draft decision on account of its proposal to establish an open-ended working group to elaborate an optional protocol to the International Covenant on Economic, Social and Cultural Rights. His delegation agreed with the independent expert (E/CN.4/2002/57, para. 55) that the working group should not be set up until he had completed his work on the merits of the proposal. It also agreed with the view that it was not feasible to establish an adjudicative mechanism for violations of economic, social and cultural rights and that the wording of article 2, paragraph 1, of the Covenant, which had no counterpart in the International Covenant on Civil and Political Rights, merited closer attention. Likewise, the provisions of the Covenant could not be translated into clearly defined commitments so that individual breaches could give rise to remedies under the communications procedure that would be established by the optional protocol (ibid., para. 20). The Committee on Economic, Social and Cultural Rights could not first engage a State in the consideration of periodic reports and go on to act as a judicial investigative settlement body, but must opt for one or the other role.

60. **Mr. Rodríguez Parrilla** (Cuba) said it was important that the draft decision, based on a draft resolution submitted to the Commission on Human Rights by the delegation of Portugal and endorsed by many developing countries, should be adopted. The draft optional protocol had been developed to the stage at which it would deal not only with questions of individual communications, but with ensuring that the exercise of such rights were considered on an equal footing with civil and political rights.

61. *A recorded vote was taken on draft decision 12.*

In favour:

Andorra, Angola, Argentina, Austria, Bahrain, Benin, Bhutan, Brazil, Burkina Faso, Burundi, Chile, China, Costa Rica, Croatia, Cuba, Egypt, El Salvador, Ethiopia, Finland, France, Georgia, Germany, Ghana, Hungary, Iran (Islamic Republic of), Italy, Libyan Arab Jamahiriya, Malta, Mexico, Nepal, Netherlands, Nigeria, Peru, Qatar, Republic of Korea, Romania, Russian Federation, South Africa, Spain, Sudan, Suriname, Sweden, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

Against:

United States of America.

Abstaining:

Australia, India, Japan, Pakistan.

62. *Draft decision 12 was adopted by 46 votes to 1, with 4 abstentions.*

63. **Mr. Blazey** (Australia) said that, while his delegation firmly supported the economic, social and cultural rights enshrined in the Universal Declaration of Human Rights, all human rights were important. His delegation's abstention had been prompted not by his country's waning commitment to the exercise of those rights, but by its specific concern about the establishment of an open-ended working group to consider an individual complaints mechanism. His delegation was dismayed by proposals to set up new mechanisms before the real need for them had been

established. It had reservations about spending limited resources on a working group in that connection and would, instead, support the strengthening of existing mechanisms.

64. **Ms. Loemban Tobing-Klein** (Suriname) said that her delegation had been pleased to vote in favour of the decision, since human rights violations denied people access to education and the entire array of economic, social and cultural rights. She hoped that the establishment of an optional protocol would ensure that human rights violators were punished.

Draft decision 13

65. **The President** invited the Council to take action on draft decision 13, entitled "The right to food".

66. **Ms. Serwer** (United States of America) said that the most effective route to food security was sound policies of growth and open markets, the principal responsibility for which lay with each Government. While the United States, the world's largest food donor, played a vital role in food security worldwide, through both bilateral and multilateral assistance, it could not support the idea of the right to food as a justiciable right of those who claimed that their food rights were denied.

67. *A recorded vote was taken on draft decision 13.*

In favour:

Andorra, Angola, Argentina, Austria, Bahrain, Benin, Bhutan, Brazil, Burkina Faso, Burundi, Chile, China, Costa Rica, Croatia, Cuba, Egypt, El Salvador, Ethiopia, Finland, France, Georgia, Germany, Ghana, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Libyan Arab Jamahiriya, Malta, Mexico, Nepal, Netherlands, Nigeria, Pakistan, Peru, Qatar, Republic of Korea, Romania, Russian Federation, South Africa, Spain, Sudan, Suriname, Sweden, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

Against:

United States of America.

Abstaining:

Australia.

68. *Draft decision 13 was adopted by 49 votes to 1, with 1 abstention.*

Draft decision 14

69. **The President** invited the Council to take action on draft decision 14, entitled "Globalization and its impact on the full enjoyment of human rights".

70. *A recorded vote was taken on draft decision 14.*

In favour:

Angola, Argentina, Bahrain, Benin, Bhutan, Brazil, Burkina Faso, Burundi, Chile, China, Costa Rica, Cuba, Egypt, El Salvador, Ethiopia, Ghana, India, Iran (Islamic Republic of), Libyan Arab Jamahiriya, Mexico, Nepal, Nigeria, Pakistan, Peru, Qatar, Russian Federation, South Africa, Sudan, Suriname, Uganda, Zimbabwe.

Against:

Andorra, Australia, Austria, Croatia, Finland, France, Georgia, Germany, Hungary, Italy, Japan, Malta, Netherlands, Republic of Korea, Romania, Spain, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

None.

71. *Draft decision 14 was adopted by 31 votes to 20.*

Draft decision 15

72. **The President** invited the Council to take action on draft decision 15, entitled "Effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights".

73. *A recorded vote was taken on draft decision 15.*

In favour:

Angola, Benin, Bhutan, Brazil, Burkina Faso, Burundi, China, Cuba, Egypt, Ethiopia, Ghana, India, Iran (Islamic Republic of), Libyan Arab Jamahiriya, Nepal, Nigeria, Pakistan, Qatar, Russian Federation, South Africa, Sudan, Suriname, Uganda, Zimbabwe.

Against:

Andorra, Australia, Austria, Croatia, Finland, France, Georgia, Germany, Hungary, Italy, Japan, Malta, Netherlands, Republic of Korea, Romania, Spain, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Argentina, Bahrain, Chile, Costa Rica, El Salvador, Mexico, Peru.

74. *Draft decision 15 was adopted by 24 votes to 20, with 7 abstentions.*

Draft decision 16

75. **The President** invited the Council to take action on draft decision 16, entitled "Human rights and extreme poverty".

76. *Draft decision 16 was adopted.*

Draft decision 17

77. **The President** invited the Council to take action on draft decision 17, entitled "The right of everyone to the enjoyment of the highest attainable standard of physical and mental health".

78. **Ms. Serwer** (United States of America) said that while her Government firmly believed in the right of all persons to health, as set forth in article 25 of the Universal Declaration of Human Rights, it could not support the draft decision for a number of reasons. It did not agree with the proposed appointment of a new special rapporteur, in the belief that the scarce resources available in the human rights area could be better utilized, rather than allocated to unnecessary mandates while important activities might be short-changed. The role of a new special rapporteur for health attempted to establish a legal arena for health matters and could result in lawsuits or other legal action against Governments for health benefits they could ill afford.

79. **Mr. Caldas de Moura** (Brazil) said that the main aim of resolution 2002/31, which had been adopted by the Commission on Human Rights without a vote, was to provide adequate mechanisms for ensuring appropriate implementation of the right to health established in the Universal Declaration of Human Rights and make for flexible dialogue on the matter with all Member States. A special rapporteur would do just that and help establish the mechanisms for the attainment of physical and mental health for all. Inasmuch as funding for the post had already been provided for in the programme budget for the biennium 2002-2003, no additional financing would be needed. He therefore hoped that the draft decision would be adopted.

80. *A recorded vote was taken on draft decision 17.*

In favour:

Andorra, Angola, Argentina, Austria, Bahrain, Benin, Bhutan, Brazil, Burkina Faso, Burundi, Chile, China, Costa Rica, Croatia, Cuba, Egypt, El Salvador, Ethiopia, Finland, France, Georgia, Germany, Ghana, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Libyan Arab Jamahiriya, Malta, Mexico, Nepal, Netherlands, Nigeria, Pakistan, Peru, Qatar, Republic of Korea, Romania, Russian Federation, South Africa, Spain, Sudan, Suriname, Sweden, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

Against:

Australia, United States of America.

Abstaining:

None.

81. *Draft decision 17 was adopted by 49 votes to 2.*

82. **Ms. Sekal** (Japan) said her delegation had voted in favour of the draft decision, believing as it did in the general concept of that right. However, the need to establish any new special rapporteurs should be carefully examined in the light of the challenge of rationalizing and streamlining the human rights machinery, including that of special rapporteurs.

83. **Mr. Blazey** (Australia) said that, while his Government was interested in human rights issues worldwide and supported the principles contained in the decision, his delegation had cast a negative vote because it totally opposed the establishment of a new special rapporteur. It was against the process agreed on in the Commission on Human Rights resolution and feared that the work of a special rapporteur would duplicate that of other bodies, especially the World Health Organization, needlessly stretching already limited resources. His delegation's negative vote was not a condemnation of efforts to improve health standards worldwide, but of States' inadequate consideration of the cost a special rapporteur would entail.

Draft decisions 18, 19, 20, 21, 22, 23 and 24

84. **The President** invited the Council to take action on draft decision 18, entitled "Torture and other cruel, inhuman or degrading treatment or punishment", draft decision 19, entitled "Elimination of all forms of

religious intolerance", draft decision 20, entitled "The right to freedom of opinion and expression", draft decision 21, entitled "Integrating the human rights of women throughout the United Nations system", draft decision 22, entitled "International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families", draft decision 23, entitled "Human rights of persons with disabilities" and draft decision 24, entitled "Human rights of migrants".

85. *Draft decisions 18, 19, 20, 21, 22, 23 and 24 were adopted.*

Draft decision 25

86. **The President** invited the Council to take action on draft decision 25, entitled "Working Group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights and the International Decade of the World's Indigenous People".

87. **Ms. Serwer** (United States of America) said that her delegation would abstain from the vote on the draft decision because, while it appreciated the Working Group's achievements, the time had come to transfer its activities to the Permanent Forum on Indigenous Issues, which had been part of the basic justification for the establishment of the Forum. To extend its mandate any further would be to squander scarce resources and perpetuate duplication of work in the United Nations system.

88. *At the request of the representative of the United States of America, a recorded vote was taken on draft decision 25.*

In favour:

Andorra, Angola, Argentina, Australia, Austria, Bahrain, Benin, Bhutan, Brazil, Burkina Faso, Burundi, Chile, China, Costa Rica, Croatia, Cuba, Egypt, El Salvador, Ethiopia, Finland, France, Georgia, Germany, Ghana, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Libyan Arab Jamahiriya, Malta, Mexico, Nepal, Netherlands, Nigeria, Pakistan, Peru, Qatar, Republic of Korea, Romania, Russian Federation, South Africa, Spain, Sudan, Suriname, Sweden, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

Against:

None.

Abstaining:

United States of America.

89. *Draft decision 25 was adopted by 50 votes to none, with 1 abstention.*

Draft decisions 26 and 27

90. **The President** invited the Council to take action on draft decision 26, entitled "Working group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994" and draft decision 27, entitled "Situation of human rights in Myanmar".

91. *Draft decisions 26 and 27 were adopted.*

Draft decision 28

92. **The President** drew attention to draft decision 28, entitled "Racism, racial discrimination, xenophobia and related intolerance" and to document E/2002/L.21, which contained an amendment to the draft decision proposed by the representative of South Africa. In accordance with rule 66 of its rules of procedure, the Council would first take action on the proposed amendment.

93. *The amendment proposed by the representative of South Africa was adopted.*

94. **The President** invited the Council to take action on draft decision 28, as amended.

95. **Mr. Hahn** (Observer for Denmark), speaking on behalf of the European Union and the associated countries Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia, said that the European Union was firmly resolved to implement the commitments entered into at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (Durban, 2001), as set out in the Programme of Action and reaffirmed in General Assembly resolution 56/266. It therefore regretted that it had not been possible to reach a consensus on the implementation of the Durban commitments in the Commission on Human Rights. The draft decision before the Council went far beyond what had been agreed in Durban. A clear example was the call for the establishment of an intergovernmental working group and a working group of five independent experts on people of African descent. Instead of introducing new

elements that threatened to undermine the consensus achieved in Durban, the decision should have focused on concrete steps to fight racism. While the European Union supported the renewal of the mandate of the Special Rapporteur, it believed that his appointment lay within the purview of the Chairman of the Commission and that the rules previously agreed on limiting the term of the mandate of the Special Rapporteur should apply in all circumstances. For those reasons, those countries members of the European Union and associated countries who were members of the Council would vote against the draft decision.

96. The elimination of acts of racism and racial discrimination was the responsibility and duty of the entire international community. The European Union wished to reiterate its determination to cooperate with all delegations in combating those scourges and looked forward to constructive discussions on the issue in the future.

97. **Ms. Serwer** (United States of America) said that her Government was committed to combating racism, racial discrimination, xenophobia, anti-Semitism and other forms of religious intolerance, both within the United States and throughout the world. It could not, however, support the draft decision before the Council since it was based on the flawed outcome documents of the Durban Conference, which the United States did not endorse.

98. **Mr. Rodríguez Parrilla** (Cuba) expressed surprise at the arguments adduced by the previous speakers. He recalled that the post of High Commissioner for Human Rights had been established on the basis of an agreement reached at the World Conference for Human Rights (Vienna, 1993). There had been a similar agreement at the Durban Conference to establish the follow-up machinery called for in the draft decision. He therefore regretted that some delegations did not wish to accord the Durban outcome equal treatment.

99. **Mr. Montwedi** (South Africa) said he was shocked at the suggestion that new elements, not drawn from the Durban Declaration and Programme of Action, had been introduced in the draft decision; that simply was not the case. As to the allegation that the appointment of the Special Rapporteur by the Commission was somehow irregular, his delegation considered that no individual, even the Chairman of the Commission, was greater than the Commission itself.

100. **Mr. Mekel** (Observer for Israel) said that his delegation rejected certain sections of the Durban Declaration and Programme of Action and the spirit in which those documents had been drafted. At the Durban Conference, the world had witnessed a regrettable attempt to turn an important international forum into an attack on a Member State. Over the past 18 months, there had been an upsurge in the number of anti-Semitic attacks, as persons opposed to the policies of the Israeli Government took the liberty of physically attacking Jews. That situation could not be tolerated. He therefore called on the Council and the international community as a whole to take steps to put an end to those attacks.

101. *A recorded vote was taken on draft decision 28, as amended.*

In favour:

Angola, Argentina, Bahrain, Benin, Bhutan, Brazil, Burkina Faso, Chile, China, Costa Rica, Cuba, Egypt, El Salvador, Ethiopia, Ghana, India, Iran (Islamic Republic of), Libyan Arab Jamahiriya, Mexico, Nepal, Nigeria, Pakistan, Peru, Qatar, Russian Federation, South Africa, Sudan, Suriname, Uganda, Zimbabwe.

Against:

Andorra, Australia, Austria, Finland, France, Georgia, Germany, Hungary, Italy, Malta, Netherlands, Romania, Spain, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Burundi, Croatia, Japan, Republic of Korea.

102. *Draft decision 28, as amended, was adopted by 30 votes to 17, with 4 abstentions.*[*]

103. **Mr. Blazey** (Australia), speaking also on behalf of Canada, said that his Government was unequivocally opposed to racism in all its forms and was committed to strong action both domestically and internationally in order to address that problem. The international community could fight racism, racial discrimination, xenophobia and related intolerance only through the implementation of forward-looking, positive and concrete measures at the national, regional and international levels. His delegation had voted against

[*] The delegation of Burundi subsequently informed the Council that it had intended to vote in favour of the draft decision, as amended.

the decision just adopted because of its deep and continuing disappointment at the divisive political debate at the Durban Conference. Its concerns, which were clearly articulated in the final conference report, affected its views on the approach that the international community should take to the implementation of the Durban outcomes. His delegation's vote also reflected its concern at the proliferation of follow-up mechanisms, which went beyond what had been agreed in Durban. Given its position, his delegation was also unable to support the request for resources for the implementation of the decision.

104. He wished to underscore that his delegation's vote against the decision was not a vote against efforts to combat racism. The Durban Declaration and Programme of Action contained many important conclusions and recommendations. His Government was committed to their implementation as part of its broader continuing commitment to the global fight against racism. It looked forward to further cooperation with other Member States for that purpose.

Draft decision 29

105. **The President** invited the Council to take action on draft decision 29, entitled "The right to development".

106. *Draft decision 29 was adopted.*

Draft decision 30

107. **The President** invited the Council to take action on draft decision 30, entitled "Composition of the staff of the Office of the United Nations High Commissioner for Human Rights".

108. *At the request of the representative of the United States of America, a recorded vote was taken on draft decision 30.*

In favour:

Angola, Argentina, Bahrain, Benin, Bhutan, Brazil, Burkina Faso, Burundi, Chile, China, Costa Rica, Cuba, Egypt, El Salvador, Ethiopia, Ghana, India, Iran (Islamic Republic of), Libyan Arab Jamahiriya, Nepal, Nigeria, Pakistan, Peru, Qatar, Russian Federation, South Africa, Sudan, Suriname, Uganda, Ukraine, Zimbabwe.

Against:

Andorra, Australia, Austria, Finland, France, Georgia, Germany, Hungary, Italy, Japan, Malta, Netherlands, Republic of Korea, Romania, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Croatia, Mexico.

109. *Draft decision 30 was adopted by 31 votes to 18, with 2 abstentions.*

Draft decisions 31, 32 and 33

110. **The President** invited the Council to take action on draft decision 31, entitled "Assistance to Somalia in the field of human rights", draft decision 32, entitled "Enhancement of the effectiveness of the working methods of the Commission" and draft decision 33, entitled "Rights of the child".

111. *Draft decisions 31, 32 and 33 were adopted.*

The meeting rose at 12.55 p.m.